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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9371 of 2001

with

CIVIL APPLICATION No. 11340 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

D G VARMORA

Versus

SECTION OFFICER

Appearance:

1. Special Civil Application No. 9371 of 2001
M/S THAKKAR ASSOC. for Petitioners No. 1-21
MR SN SHELAT, ADVOCATE GENERAL with MR P.R.
ABICHANDANI, AGP, for Respondents No. 1-2

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 28/11/2001

ORAL JUDGEMENT

The question involved in this petition is about preparation of seniority list of promotee Deputy Mamlatdars who are working in District Junagadh.

2. Brief facts necessary for the purpose of disposal of this petition are as under :

3. The post of Dy. Mamlatdar is a District level post and the promotional post, which is that of the Mamlatdar, is a State level post. Upon being promoted to the post of Mamlatdar, an employee can be transferred anywhere in the State of Gujarat whereas a Deputy Mamlatdar is normally transferred within the District. It is, therefore, necessary to have a consolidated seniority list of Deputy Mamlatdars working in the State in different districts so as to give them promotion to the post of Mamlatdar. For that purpose, seniority lists of Deputy Mamlatdars working in different districts are considered and thereafter a consolidated seniority list of Deputy Mamlatdars working in the State is prepared.

4. In the process of preparing a State level seniority list of promotee Deputy Mamlatdars, seniority list of Deputy Mamlatdars working in Junagadh district had been prepared and finalised on 23.1.2001. The said list gives details regarding seniority of promotee Deputy Mamlatdars as on 1.1.1997.

5. The grievance which has been ventilated by the petitioners in this petition is that the said list is likely to be changed in pursuance of directions given by the State of Gujarat under its letter dated 23.7.2001 (Annexure E). It has been submitted by learned advocate Mrs. Pahwa appearing for the petitioners that once the list of promotee Deputy Mamlatdars of Junagadh District had been finalised, it was not necessary for the State of Gujarat to give any direction to the Collector, Junagadh for preparation of a fresh seniority list of the Deputy Mamlatdars. According to her, the said directions or guidelines have been given with a mala fide intention of doing some undue favour to certain Deputy Mamlatdars. It has been submitted by her that the said seniority list has been prepared on the basis of earlier seniority list of Deputy Mamlatdars which had been finalised and, therefore, there is no reason to make any change in the said list. She has made several other submissions so as to show that the directions or guidelines given by the Government under letter dated 23.7.2001 were not at all required.

6. On the other hand, learned Advocate General Shri

Shelat has submitted that the petition is premature for the reason that if any change is likely to be made by the Collector, Junagadh, in the seniority list of promotee Deputy Mamlatdars, the Collector, Junagadh, would invite objections from the persons who are likely to be adversely affected and before making any change in the seniority list, which has been referred to hereinabove, the concerned persons would be heard.

7. It has been thereafter submitted that after finalisation of the seniority list of promotee Deputy Mamlatdars working in District Junagadh, the said list shall be incorporated in the State level list of Deputy Mamlatdars and before finalising the list of Deputy Mamlatdars at State level, objections would be invited and it would be open to the petitioners to raise their objections even at that stage. So, in a nutshell, it has been submitted by him that the petition is premature and if any change is to be made in the seniority list of promotee Deputy Mamlatdars, the change to be made in the seniority list would be finalised only after considering the objections of the petitioners or other concerned persons.

8. I have heard the learned advocates at length. Looking to the facts of the case, in my opinion, at this stage this court should not go into the objections raised by the petitioners in the petition for the simple reason that the Collector, Junagadh is surely to hear the concerned aggrieved persons, if anybody is likely to be aggrieved due to any change made in the seniority list which is at Annexure A to the petition.

9. The petitioners have been aggrieved by the directions given by the State of Gujarat under its letter dated 23.7.2001. The directions or guidelines which have been given in the said letter are general in nature. The said directions/guidelines have been given to all the district collectors. It appears that some of the Collectors, in the process of preparing seniority list of Deputy Mamlatdars, might have made some mistakes which might have come to the notice of the Government and, therefore, for the sake of abundant caution, certain directions have been given to all the Collectors so that the Collectors, who had not considered the points stated in the said letter, can consider the factors narrated in the said letter while preparing or finalising the seniority list of deputy mamlatdars of their districts.

10. The submission of learned advocate Ms. Pahwa that such directions could not have been given because

the seniority list of the Deputy Mamlatdars working in district Junagadh had become final is absolutely misplaced because the said instructions have not been given specifically to the Collector, Junagadh. The apprehension of the learned advocate for the petitioners that the seniority list of the Deputy Mamlatdars prepared by the Collector, Junagadh, will surely be changed is also not proper for the reason that if the seniority list has already been prepared after considering all the relevant factors, which have been included in the letter dated 23.7.2001, the Collector, Junagadh might not make any change in the seniority list which has already been prepared by him. If, by chance, the Collector, Junagadh had not considered some of the relevant factors while preparing the seniority list of the Deputy Mamlatdars and if now he realises his mistake, he will have to invite objections before making any change in the list of the Deputy Mamlatdars, so far as district Junagadh is concerned. In that event, the petitioners shall get an opportunity to make their representation or file their objections before the Collector, Junagadh. Thus, the apprehension of learned advocate Ms. Pahwa that the Collector, Junagadh shall make change in the seniority list of the Deputy Mamlatdars without considering objections, which might be raised by the concerned petitioners, is not well founded.

11. It is also pertinent to note that the learned Advocate General appearing with learned AGP Shri P.R. Abichandani has submitted that so far as district Junagadh is concerned, the Collector, Junagadh, has already prepared a provisional seniority list of the Deputy Mamlatdars after considering the contents of the letter dated 23.7.2001 and the said list has been published on 5.11.2001. The Collector, Junagadh, has invited objections and he has also received some objections which are pending for his consideration. The learned Advocate General has assured this court that before finalising the said seniority list, the objections which have been received by the Collector, Junagadh, shall be considered objectively. I am sure that the Collector, Junagadh, will look into all the objections objectively and only after considering all the objections, he shall finalise the seniority list. Thus, it is very clear that at this stage, even the seniority list of the Deputy Mamlatdars of District Junagadh has not become final and, therefore, it would not be proper on the part of the petitioners to make any grievance with regard to the seniority list of the Deputy Malatdars in question.

12. It is pertinent to note that even after the seniority list of the Deputy Mamlatdars of district Junagadh is finalised by the Collector, Junagadh, the State of Gujarat will have to prepare a consolidated list of the Deputy Mamlatdars working in the State and a provisional seniority list of all the Deputy Mamlatdars working in the State will have to be published by the State of Gujarat. Even at that stage the State of Gujarat will invite objections and if objections are received by the State of Gujarat at the relevant time, the State of Gujarat will have to look into the objections and only after considering all objections, the state level provisional seniority list of the Deputy Mamlatdars shall be finalised. In the event of the petitioners having any grievance against the State level provisional seniority list of the Deputy Mamlatdars, it would be open to the petitioners to challenge validity of the said list.

13. From the facts stated hereinabove, it is crystal clear that the petition is premature at this stage and, therefore, it cannot be entertained. It is also pertinent to note that this court had given direction to the State of Gujarat by its order dated 14.9.2001 in M.C.A no. 1289 of 2001 in M.C.A. No. 1017 of 2001 in Special Civil Application No. 8378 of 2001 that the State of Gujarat should prepare a State level provisional seniority list of Deputy Mamlatdars on or before 31.12.2001. It has been submitted by the learned Advocate General that while giving the said direction, this court had also clarified that in no circumstances further extension should be asked for by the State of Gujarat and even if asked for, it would not be granted. In the circumstances, it would not be just and proper to restrain the respondent authorities from proceeding further with the process of finalisation of the State level provisional seniority list of the Deputy Mamlatdars.

14. The petition is therefore rejected with no order as to costs and the notice is discharged. It is, however, directed that the petitioners shall not be reverted to the post of Deputy Mamlatdar till 31.12.2001 as stated in the order of promotion to the post of Mamlatdar. Subject to above direction, interim relief granted in Civil Application No. 11340 of 2001 is vacated and the said civil application is also disposed of as rejected with no order as to costs.

(A.R. Dave, J.)

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